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SECRETARIAT

OF

THE ODISHA LEGISLATIVE ASSEMBLY

NOTIFICATION

The 29th August, 2013.

No. 9547/L.A.,—The following Bill which has been introduced in the Odisha Legislative Assembly on the 26th August, 2013 is herewith published under Rule 68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

THE REGISTRATION (ODISHA AMENDMENT) BILL, 2013

A

BILL

FURTHER TO AMEND THE REGISTRATION ACT, 1908 IN ITS
APPLICATION TO THE STATE OF ODISHA

BE it enacted by the Legislature of the State of Odisha in the Sixty-fourth
Year of the Republic of India as follows:—

1. This Act may be called the Registration (Odisha Amendment) Act, 2013.

2. In the Registration Act, 1908, for section 22-A, the following section shall be substituted, namely:—

22-A (1) The registering officer shall refuse to register,—

(a) any instrument relating to the transfer of immovable properties by
way of sale, gift, mortgage, exchange or lease,—

(i) belonging to the State Government, or the Local Authority;

(ii) belonging to any religious institution to which the Odisha Hindu
Religious Endowment Act, 1951 is applicable.

(iii) belonging to or recorded in the name of Lord Jagannath, Puri;

Short title.

Amendment of
section 22-A.

“Refusal to
register certain
documents.

16 of 1908.

Odisha Act
2 of 1952.

-:2:-

- (iv) donated for Bhoodan Yagna and vested in the Odisha Bhoodan Yagna Samiti established under section 3 of the Odisha Bhoodan and Gramdan Act, 1970;

Odisha Act
2 of 1971.

- (v) belonging to Wakfs which are under the supervision of the Odisha Wakf Board established under the Wakf Act, 1995;

43 of 1995.

unless a sanction in this regard, issued by the competent authority as provided under the relevant Act or in absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

Explanation.— For the purpose of this section Local Authority means any Municipal Corporation, Municipality, Notified Area Council, Zilla Parisad, Grama Panchayat, Urban Development Authority and Planning Authority or any Local Self Government constituted under any law for the time being in force.

(b) the instrument relating to cancellation of sale deeds without the consent of the person claiming under the said sale deed; and

(c) any instrument relating to transfer of immovable property, the alienation or transfer of which is prohibited under any State or the Central Act.

(2) Notwithstanding anything contained in this Act, the registering officer shall not register any document presented to him for registration unless the transferor produce the record of rights for the satisfaction of the registering officer that such transferor has right, title and interest over the property so transferred.

Explanation.—For the purpose of this sub-section ‘record-of-rights’ means the record of rights as defined under the Odisha Survey and Settlement Act, 1958.

Odisha Act 3
of 1959.

STATEMENT OF OBJECTS AND REASONS

Amendment was made in the year, 2002 in the Registration Act, 1908 and by inserting a new Section 22-A empowering the State Government to issue notification declaring the registration of any document or class of documents which are opposed to public policy and the registering officer was authorised to refuse to register such document. But, provision similar to Section 22-A of the above mentioned Act which was challenged in the Rajasthan High Court and ultimately in Supreme Court was declared ultra vires under article 14 and 246 of the Constitution of India. Further, the Supreme Court, in the above mentioned case, held that essential functions of the legislature cannot be delegated and it must be judged with touchstone of article 14 and article 246 of the Constitution of India. It is, thus, only the ancillary and procedural powers which can be delegated and not the essential legislative point.

The Supreme Court have also held that any order passed by the Sub-Registrar or Registrar refusing to register a document pursuant to any notification issued under section 22-A of the Act would not be reopened.

Now, it has been considered expedient and accordingly proposed to specify the transactions which were considered to be opposed to public policy in the Act itself instead of delegating the Executive to notify such transactions, relating to immovable properties by whatever means of transfer belonging to the State Government or local Authority; any religious institutions to which Hindu Religious Endowment Act, 1951 is applicable; donated for Bhoodan Yagna and vested in the Odisha Bhoodan Yagna Samiti established under Section 3 of the Odisha Bhoodan and Gramdan Act, 1970, wafks or recorded in the name of Lord Jagannath Maha Prabhu, Puri by substituting Section 22-A of the Act.

It has also been considered that the registering officer shall not register any document presented to him for registration unless the transferor produce the record of rights for the satisfaction of the registering officer that such transferor has right, title and interest over the property so transferred.

The Bill seeks to achieve the above objectives.

SURJYA NARAYAN PATRO
Member-in-Charge

A. K. SARANGI
Secretary
Odisha Legislative Assembly

